

State of Utah
Administrative Rule Analysis

NOTICE OF CHANGE IN PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-31b	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Laura Poe	801-530-6789	801-530-6511	lpoe@utah.gov

(Interested persons may inspect this administrative rule at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	Title of rule or section (catchline):
	Nurse Practice Act Rules
3.	Type of notice: Change in Proposed Rule
	Changes original proposed rule file no.: 27301
4.	Purpose of the rule or reason for the change:
	Following a public hearing, written public comments and further Division review, further amendments are being made in the proposed rule.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	Yes ___; No XX
6.	Summary of the rule change:
	Throughout the entire rule, amendments are made to delete all language regarding the LPN-Geriatric Care Manager (GCM) pilot program. This issue will be addressed at a later date in another rule filing. Adds a definition for the Council of Nurse Anesthesia Education Programs (COA) and includes this accreditation for approval of nurse anesthesia programs. Adds Section 302d regarding the handling of fingerprint cards and criminal background checks for applicants from foreign countries. Extended the date from July 1, 2005 to December 31, 2005 by which all provisionally approved nursing education programs must become nationally accredited to allow enough time for programs to complete the process.
7.	Aggregate anticipated cost or savings to:
	A) State budget:

	<p>No additional costs will be incurred beyond those identified in the proposed rule filing. By removing the LPN-GCM language from the rule, it will delay the implementation of the pilot program. If a government agency, i.e. Division of Aging planned to employ the services of a LPN-GCM, any additional salary costs will not be incurred until further rules are proposed, adopted and the pilot program goes forward.</p> <p>B) Local government:</p> <p>By removing the LPN-GCM language from the rule, it will delay the implementation of the pilot program. If a government agency, i.e. Division of Aging planned to employ the services of a LPN-GCM, any additional salary costs will not be incurred until further rules are proposed, adopted and the pilot program goes forward.</p> <p>C) Other persons:</p> <p>Any costs that may have been incurred by implementing the LPN-GCM pilot program, which were identified in the proposed rule filing, will be delayed until another rule filing and adoption.</p>													
8.	<p>Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>Any costs that may have been incurred by implementing the LPN-GCM pilot program, which were identified in the proposed rule filing, will be delayed until another rule filing and adoption.</p>													
9.	<p>Comments by the department head on the fiscal impact the rule may have on businesses:</p> <p>The rule filing clarifies the criminal background check procedure for applicants from foreign countries. The rule filing also includes technical changes by clarifying existing provisions with additional definitions and updating references within the existing rules. There is no fiscal impact to businesses as to these clarifying and technical changes. This change to proposed rules removes the geriatric nurse pilot program provisions based upon comments received after the filing of the original proposed rule. Therefore, any costs associated with that pilot program will not be incurred until the pilot program is implemented. Klarice A. Bachman, Executive Director</p>													
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</p> <p>Section 58-31b-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)</p>													
11.	<p>This rule adds, updates, or otherwise changes the following titles of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):</p>													
12.	<p>The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i>. See Section 63-46a-5 and Rule R15-1 for more information.)</p> <table border="1"> <tr> <td>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</td> <td>12/15/2004</td> </tr> <tr> <td colspan="2">B) A public hearing (optional) will be held:</td> </tr> <tr> <td>on (mm/dd/yyyy):</td> <td>at (time):</td> </tr> <tr> <td></td> <td></td> </tr> <tr> <td></td> <td></td> </tr> <tr> <td></td> <td></td> </tr> </table>		A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	12/15/2004	B) A public hearing (optional) will be held:		on (mm/dd/yyyy):	at (time):						
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on (mm/dd/yyyy):	at (time):													
13.	<p>This rule change may become effective on (mm/dd/yyyy): 12/16/2004</p>													
	<p>NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.</p>													
14.	<p>Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):</p>													

	licensing	nurses
15.	Attach an RTF document containing the text of this rule change (filename):	R156-31b.cpr
To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.		
<p style="text-align: center;">AGENCY AUTHORIZATION</p>		
Agency head or designee, and title:	J. Craig Jackson, Director	Date (mm/dd/yyyy): 10/22/2004

ChangeInProposedRule.doc 9/26/2003

R156. Commerce, Occupational and Professional Licensing.

R156-31b. Nurse Practice Act Rules.

R156-31b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in these rules:

(1) "Absolute discharge", as used in Subsection 58-31b-302(7)(b), means the completion of criminal probation or parole.

(2) "Activities of daily living (ADLs)" means those personal activities in which individuals normally engage or are required for an individual's well-being whether performed by them alone, by them with the help of others, or for them by others, including eating, dressing, mobilizing, toileting, bathing, and other acts or practices to which an individual is subjected while under care in a regulated facility or under the orders of a licensed health care practitioner in a private residence.

(3) [~~"Affiliated", as used in these rules, means a condition of being united, being in close connection, allied, associated, or attached as a member or branch, as evidenced by a written contract or memorandum of understanding.~~

~~(4)~~] "Affiliated with an institution of higher education", as used in Subsection 58-31b-601(1), means the general and science education courses required as part of a nursing education program are provided by an educational institution which is approved by the Board of Regents or an equivalent governmental agency in another state or a private educational institution which is regionally accredited by an accrediting board recognized by the Council for Higher Education Accreditation of the American Council on Education; and the nursing program and the institution of higher education are affiliated with each other as evidenced by a written contract or memorandum of understanding.

([5]4) "APRN" means an advanced practice registered nurse.

([6]5) "Approved continuing education" in Subsection R156-31b-303(3) means:

(a) continuing education that has been approved by a professional nationally recognized approver of health related continuing education;

(b) nursing education courses taken from an approved education program as defined in Section R156-31b-601; and

(c) health related course work taken from an educational institution accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", 2003-04 edition, published by the American Council on Education.

([7]6) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to include any nursing education program published in the documents entitled "Directory of Accredited Nursing Programs", 2003, published by the National League for Nursing Accrediting Commission, which are hereby adopted and incorporated by reference as a part of these rules.

([8]7) "CCNE" means the Commission on Collegiate Nursing Education.

([9]8) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(9) "COA", as used in these rules, means the Council of Accreditation of Nurse Anesthesia Education Programs.

(10) "Clinical mentor/preceptor", as used in Section R156-31b-607, means an individual who is employed by a clinical health care facility and is chosen by that agency, in collaboration with the Parent-Program, to provide direct, on-site supervision and direction to a nursing student who is engaged in a clinical rotation, and who is accountable to both the clinical agency and the supervisory clinical faculty member.

(11) "Contact hour" means 50 minutes.[

~~(12) "Consultation", as used in Subsection R156-31b-703, means the LPN-GCM may develop or revise a treatment plan without the direction or immediate oversight of the RN. The LPN-GCM is to confer with or ask the advice of the RN as needed. However, the RN must review and approve treatment plans as required in Subsection R156-31b-703.~~

~~(13) "Contributing to or participating in", as used in Subsection 58-31-102(17), means a LPN makes observations, provides data, and input into the nursing process while under the direction of a RN, MD or other licensee as defined by these rules, who is responsible for developing and documenting the plan of care.]~~

(~~14~~12) "CRNA" means a certified registered nurse anesthetist.

(~~15~~13) "Delegation" means transferring to an individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation.

(~~16~~14) "Direct supervision" is the supervision required in Subsection 58-31b-306(1)(a)(iii) and means:

(a) the person providing supervision shall be available on the premises at which the supervisee is engaged in practice; or

(b) if the supervisee is specializing in psychiatric mental health nursing, the supervisor may be remote from the supervisee if there is personal direct voice communication between the two prior to administering or prescribing a prescription drug.

(~~17~~15) "Disruptive behavior", as used in these rules, means conduct, whether verbal or physical, that is demeaning, outrageous, or malicious and that places at risk patient care or the process of delivering quality patient care. Disruptive behavior does not include criticism that is offered in good faith with the aim of improving patient care.

(~~18~~16) "Generally recognized scope and standards of nursing practice", as referred to in Subsections 58-31b-102(17), (18), and (19), means the "Nursing:Scope and Standards of Practice", 2003, published by the American Nurses Association, which is hereby adopted and incorporated by reference, or as established by the professional community.

(~~19~~17) [~~"Geriatric", as used in these rules, means a population of people 50 years or older who reside in a long term facility which has been approved to participate in the LPN-GCM Pilot Program.~~

~~(20)~~] "Licensure by equivalency" as used in these rules means licensure as a licensed practical nurse after successful completion of course work in a registered nurse program which meets the criteria established in Section R156-31b-601.

(~~21~~18) "LPN" means a licensed practical nurse.[

~~(22) "LPN-GCM" means a licensed practical nurse geriatric care manager.]~~

(~~23~~19) "NLNAC" means the National League for Nursing Accrediting Commission.

(~~24~~20) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(~~25~~21) "Non-approved education program" means any foreign nurse education program.

(~~26~~22) "Other specified health care professionals", as used in Subsection 58-31b-102(12), who may direct the licensed practical nurse means:

(a) advanced practice registered nurse;

- (b) certified nurse midwife;
- (c) chiropractic physician;
- (d) dentist;
- (e) osteopathic physician;
- (f) physician assistant;
- (g) podiatric physician;
- (h) optometrist;
- (i) certified registered nurse anesthetist.

(~~[27]~~23) "Parent-program", as used in Section R156-31b-607, means a nationally accredited, Board of Nursing approved nursing education program that is providing nursing education (didactic, clinical or both) to a student and is responsible for the education program curriculum, and program and student policies.

(~~[28]~~24) "Patient surrogate", as used in Subsection R156-31b-502(4), means an individual who has legal authority to act on behalf of the patient when the patient is unable to act or decide for himself, including a parent, foster parent, legal guardian, or a person designated in a power of attorney.

(~~[29]~~25) "Personal assistance and care", as used in Subsection 58-31b-102(11), means acts or practices by an individual to personally assist or aid another individual in activities of daily living. These activities do not include those services provided by physical therapy, occupational therapy, or recreational therapy aides/assistants.

(~~[30]~~26) "Postsecondary school", as used in Section R156-31b-607, means a program registered and in good standing with the Utah Department of Commerce, Division of Consumer Protection, that offers coursework to individuals who have graduated from high school or have been awarded a GED.[

~~(31) "PRN" means as needed.]~~

(~~[32]~~27) "Psychiatric mental health nursing specialty", as used in Subsection 58-31b-302(3)(g), includes psychiatric mental health nurse specialists and psychiatric mental health nurse practitioners.

(~~[33]~~28) "RN" means a registered nurse.

(~~[34]~~29) "Supervision" in Section R156-31b-701 means the provision of guidance or direction, evaluation and follow up by the licensed nurse for accomplishment of a task delegated to unlicensed assistive personnel or other licensed individuals.

(~~[35]~~30) "Supervisory clinical faculty", as used in Section R156-31b-607, means one or more individuals employed by an approved nursing education program who meet the accreditation and Board of Nursing specific requirements to be a faculty member and are responsible for the overall clinical experiences of nursing students and may supervise and coordinate clinical

mentors/preceptors who provide the actual direct clinical experience.

(~~[36]~~31) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-302c. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Section 58-31b-302, the examination requirements for graduates of approved nursing programs are as follows.

(a) An applicant for licensure as an LPN or RN shall pass the applicable NCLEX examination.

(b) ~~[An applicant for certification as a LPN-CCM shall pass the Long Term Care Certification Examination offered by the National Association for Practical Nurse Education and Services, Inc. (NAPNES) with a passing score as established by NAPNES.~~

~~(c)~~ An applicant for licensure as an APRN shall pass one of the following national certification examinations consistent with his educational specialty:

(i) one of the following examinations administered by the American Nurses Credentialing Center Certification:

- (A) Adult Nurse Practitioner;
- (B) Family Nurse Practitioner;
- (C) Pediatric Nurse Practitioner;
- (D) Gerontological Nurse Practitioner;
- (E) Acute Care Nurse Practitioner;
- (F) Clinical Specialist in Medical-Surgical Nursing;
- (G) Clinical Specialist in Gerontological Nursing;
- (H) Clinical Specialist in Adult Psychiatric and Mental Health Nursing;

(I) Clinical Specialist in Child and Adolescent Psychiatric and Mental Health Nursing;

(J) Psychiatric and Mental Health Nurse Practitioner (Adult and Family);

- (ii) Pediatric Nursing Certification Board;
- (iii) American Academy of Nurse Practitioners;
- (iv) the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;

(v) the Oncology Nursing Certification Corporation Advanced Oncology Certified Nurse if taken on or before July 1, 2005;

(vi) the Advanced Practice Certification for the Clinical Nurse Specialist in Acute and Critical Care; or

(vii) the Advanced Critical Care Examination administered by the American Association of Critical Care Nurses.

(d) An applicant for licensure as a CRNA shall pass the examination of the Council on Certification of Nurse Anesthetists.

(2) In accordance with Section 58-31b-303, an applicant for licensure as an LPN or RN from a non-approved nursing program shall pass the applicable NCLEX examination.

R156-31b-302d. Qualifications for Licensure - Criminal Background Checks.

(1) In accordance with Subsection 58-31b-302(7), an applicant for licensure under this chapter who is applying for licensure from a foreign country shall meet the fingerprint requirement by submitting:

(a) a visa issued within six months of making application to Utah; or

(b) a copy of a criminal background check from the country in which the applicant has immigrated, provided the check was completed within six months of making application to Utah.

R156-31b-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licensees under Title 58, Chapter 31b, is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

(3) Each applicant for renewal shall comply with the following continuing competence requirements:

(a) A LPN or RN shall complete one of the following during the two years immediately preceding the application for renewal:

(i) licensed practice for not less than 400 hours;

(ii) licensed practice for not less than 200 hours and completion of 15 contact hours of approved continuing education; or

(iii) completion of 30 contact hours of approved continuing education hours.

~~(b) [A LPN-CCM shall complete the requirement in Subsection (3)(a)(i) of this section and 10 contact hours of approved continuing education specific to nursing practice in a long-term care facility.]~~

~~(c)~~ An APRN shall complete the following:

(i) be currently certified or recertified in their specialty area of practice; or

(ii) if licensed prior to July 1, 1992, complete 30 hours of approved continuing education and 400 hours of practice.

~~(d)~~ A CRNA shall be currently certified or recertified as a CRNA.

R156-31b-306. Inactive Licensure.

(1) A licensee may apply for inactive licensure status in accordance with Sections 58-1-305 and R156-1-305.

(2) To reactivate a license which has been inactive for five years or less, the licensee must document current compliance with the continuing competency requirements as established in Subsection R156-31b-303(3).

(3) To reactivate a RN or LPN license which has been inactive for more than five years but less than 10 years, the licensee must document active licensure in another state or jurisdiction, pass the required examinations as defined in Section R156-31b-302c within six months prior to making application to reactivate a license, or successfully complete an approved re-entry program.

(4) To reactivate a RN or LPN license which has been inactive for 10 or more years, the licensee must document active licensure in another state or jurisdiction, or pass the required examinations as defined in Section R156-31b-302 within six months prior to making application to reactivate a license and successfully complete an approved re-entry program.

(5) ~~[To reactivate a LPN GCM certification which has been inactive for more than five years, the certificate holder must meet the requirements for reactivation of a LPN license as established in Subsections (3) and (4) of this section and complete the training and examination requirements defined in Section R156-31b-608 and Subsection R156-31b-302c(1)(b) within three months prior to making application to reactivate the certification.~~

~~(6)~~—]To reactivate an APRN or CRNA license which has been inactive for more than five years, the licensee must document active licensure in another state or jurisdiction or pass the required examinations as defined in Section R156-31b-302c within six months prior to making application to reactivate a license.

R156-31b-401. Disciplinary Proceedings.

(1) An individual licensed as a LPN ~~[or LPN-GCM]~~ who is currently under disciplinary action and qualifies for licensure as an RN may be issued an RN license under the same restrictions as the LPN ~~[or LPN-GCM]~~.

(2) A nurse or health care assistant whose license or registration is suspended under Subsection 58-31b-401(2)(d) may petition the division at any time that he can demonstrate that he can resume competent practice.

R156-31b-402. Administrative Penalties.

In accordance with Subsections 58-31b-102(1) and 58-31b-402(1), unless otherwise ordered by the presiding officer, the following fine schedule shall apply.

(1) Using a protected title:

initial offense: \$100 - \$300

subsequent offense(s): \$250 - \$500

(2) Using any title that would cause a reasonable person to believe the user is licensed or registered under this chapter:

initial offense: \$50 - \$250

subsequent offense(s): \$200 - \$500

(3) Conducting a nursing education program in the state for the purpose of qualifying individuals for licensure without board approval:

initial offense: \$1,000 - \$3,000

subsequent offense(s): \$5,000 - \$10,000

(4) Practicing or attempting to practice nursing or health care assisting without a license or registration or with a restricted license or registration:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(5) Impersonating a licensee or registrant, or practicing under a false name:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(6) Knowingly employing an unlicensed person:

initial offense: \$500 - \$1,000

subsequent offense(s): \$1,000 - \$5,000

(7) Knowingly permitting the use of a license or registration by another person:

initial offense: \$500 - \$1,000

subsequent offense(s): \$1,000 - \$5,000

(8) Obtaining a passing score, applying for or obtaining a license or registration, or otherwise dealing with the division or board through the use of fraud, forgery, intentional deception, misrepresentation, misstatement, or omission:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(9) violating or aiding or abetting any other person to violate any statute, rule, or order regulating nursing or health care assisting:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(10) violating, or aiding or abetting any other person to violate any generally accepted professional or ethical standard:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(11) Engaging in conduct that results in convictions of, or a plea of nolo contendere, or a plea of guilty or nolo contendere held in abeyance to a crime of moral turpitude or other crime:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(12) Engaging in conduct that results in disciplinary action by any other jurisdiction or regulatory authority:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(13) Engaging in conduct, including the use of intoxicants, drugs to the extent that the conduct does or may impair the ability to safely engage in practice as a nurse or a health care assistant:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(14) Practicing or attempting to practice as a nurse or health care assistant when physically or mentally unfit to do so:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(15) Practicing or attempting to practice as a nurse or health care assistant through gross incompetence, gross negligence, or a pattern of incompetency or negligence:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(16) Practicing or attempting to practice as a nurse or health care assistant by any form of action or communication which is false, misleading, deceptive, or fraudulent:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(17) Practicing or attempting to practice as a nurse or health care assistant beyond the individual's scope of competency, abilities, or education:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(18) Practicing or attempting to practice as a nurse or health care assistant beyond the scope of licensure:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(19) Verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's or registrant's practice:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(20) Failure to safeguard a patient's right to privacy:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000
(21) Failure to provide nursing service in a manner that demonstrates respect for the patient's human dignity:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
(22) Engaging in sexual relations with a patient:
initial offense: \$5,000 - \$10,000
subsequent offense(s): \$10,000
(23) Unlawfully obtaining, possessing, or using any prescription drug or illicit drug:
initial offense: \$200 - \$1,000
subsequent offense(s): \$500 - \$2,000
(24) Unauthorized taking or personal use of nursing supplies from an employer:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
(25) Unauthorized taking or personal use of a patient's personal property:
initial offense: \$200 - \$1,000
subsequent offense(s): \$500 - \$2,000
(26) Knowingly entering false or misleading information into a medical record or altering a medical record:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
(27) Unlawful or inappropriate delegation of nursing care:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
(28) Failure to exercise appropriate supervision:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
(29) Employing or aiding and abetting the employment of unqualified or unlicensed person to practice:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
(30) Failure to file or impeding the filing of required reports:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
(31) Breach of confidentiality:
initial offense: \$200 - \$1,000
subsequent offense(s): \$500 - \$2,000
(32) Failure to pay a penalty:
Double the original penalty amount up to \$10,000
(33) Prescribing a schedule II-III controlled substance without a consulting physician or outside of a consultation and referral plan:
initial offense: \$500 - \$1,000

subsequent offense(s): \$500 - \$2,000
(34) Failure to confine practice within the limits of competency:
initial offense: \$500 - \$1,000
subsequent offense(s): \$500 - \$2,000
(35) Any other conduct which constitutes unprofessional or unlawful conduct:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
(36) Engaging in a sexual relationship with a patient surrogate:
initial offense: \$1,000 - \$5,000
subsequent offense(s): \$5,000 - \$10,000
(37) Engaging in practice in a disruptive manner:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000[
~~(38) Practicing as a LPN-CCM in a setting other than a long term care facility:~~
~~initial offense: \$500 - \$2,000~~
~~subsequent offense(s): \$2,000 - \$10,000~~
~~(39) Practicing as a LPN-CCM beyond the scope of practice established in Section R156-31b-703:~~
~~initial offense: \$100 - \$500~~
~~subsequent offense(s): \$200 - \$1,000].~~

R156-31b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) failing to destroy a license which has expired due to the issuance and receipt of an increased scope of practice license;
- (2) a RN issuing a prescription for a prescription drug to a patient except in accordance with the provisions of Section 58-17a-620, or as may be otherwise provided by law;
- (3) failing as the nurse accountable for directing nursing practice of an agency to verify any of the following:
 - (a) that standards of nursing practice are established and carried out so that safe and effective nursing care is provided to patients;
 - (b) that guidelines exist for the organizational management and management of human resources needed for safe and effective nursing care to be provided to patients;
 - (c) nurses' knowledge, skills and ability and determine current competence to carry out the requirements of their jobs;
 - (4) engaging in sexual contact with a patient surrogate concurrent with the nurse/patient relationship unless the nurse affirmatively shows by clear and convincing evidence that the contact:

- (a) did not result in any form of abuse or exploitation of the surrogate or patient; and
- (b) did not adversely alter or affect in any way:
 - (i) the nurse's professional judgment in treating the patient;
 - (ii) the nature of the nurse's relationship with the surrogate; or
 - (iii) the nurse/patient relationship;
- (5) engaging in disruptive behavior in the practice of nursing;
- (6) unauthorized disclosure of confidential information obtained as a result of practice as a health care assistant; and
- (7) engaging in any regulated health care practice for which the person is not registered, certified, or licensed[~~;~~ ~~and~~
- ~~(8) practicing as a LPN GCM beyond the scope of practice established in Section R156-31b-703].~~

R156-31b-601. Nursing Education Program Standards.

In accordance with Subsection 58-31b-601(2), the minimum standards that a nursing education program must meet to qualify graduates for licensure under this chapter are set forth in Sections R156-31b-601, 602, 603, and 604.

(1) Standards for programs located within Utah leading to licensure as a registered nurse, advanced practice registered nurse, or certified registered nurse anesthetist:

(a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education, or one of the following national accrediting bodies: the Accrediting Bureau of Health Education Schools (ABHES), the Accrediting Commission of Career Schools and Colleges of Technology (ACC SCT), or the Accrediting Commission of the Distance Education and Training Council (DETC);

(b) admit as students, only persons having a certificate of graduation from a school providing secondary education[~~7~~] or the recognized equivalent of such a certificate;

(c) be legally authorized by the State of Utah to provide a program of education beyond secondary education;

(d) provide not less than a two academic year program of study that awards a minimum of an associate degree that is transferable to another institution of higher education;

(e) provide an academic program of study that awards a minimum of a master's degree that is transferable to another institution of higher education if providing education toward licensure as an advanced practice registered nurse;

(f) meet the accreditation standards of either CCNE, NLNAC, or COA [~~or NLNAC~~] as evidenced by accreditation by either organization as required under Subsection R156-31b-602; and

(g) have at least 20 percent of the school's revenue from sources that are not derived from funds provided under title IV, HEA program funds or student fees, including tuition if a proprietary school.

(2) Standards for programs located within Utah leading to licensure as a licensed practical nurse:

(a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education; or one of the following national accrediting bodies: the Accrediting Bureau of Health Education Schools (ABHES)[~~7~~] or the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT);

(b) admit as nursing students, only persons having a certificate of graduation from a school providing secondary education[~~7~~] or the recognized equivalent of such a certificate;

(c) be legally authorized by the State of Utah to provide a program of education beyond secondary education;

(d) provide not less than one academic year program of study that leads to a certificate or recognized educational credential and provides courses that are transferable to an institution of higher education;

(e) meet the accreditation standards of either CCNE or NLNAC as evidenced by accreditation by either organization as required under Subsection R156-31b-602.

(f) have at least 20 percent of the school's revenue from sources that are not derived from funds provided under title IV, HEA program funds or student fees, including tuition if a proprietary school.

(3) Programs located outside of Utah leading toward licensure as a nurse must be:

(a) accredited by the CCNE, NLNAC or COA[~~or NLNAC~~]; and

(b) approved by the Board of Nursing or duly recognized agency in the state in which the program is offered.

R156-31b-602. Nursing Education Program Full Approval.

(1) Full approval of a nursing program shall be granted when it becomes accredited by the NLNAC or the CCNE.

(2) Programs which have been granted full approval as of the effective date of these rules and are not accredited, must become accredited by [~~July 1~~]December 31, 2005, or be placed on probationary status.

R156-31b-603. Nursing Education Program Provisional Approval.

(1) The division may grant provisional approval to a nursing education program for a period not to exceed three years after the date of the first graduating class, provided the program:

- (a) is located or available within the state;
- (b) is newly organized;
- (c) meets all standards for provisional approval as required in this section; and
- (d) is progressing in a reasonable manner to qualify for full approval by obtaining accreditation.

(2) The general standards for provisional approval include:

(a) the purpose and outcomes of the nursing program shall be consistent with the Nurse Practice Act and Rules and other relevant state statutes;

(b) the purpose and outcomes of the nursing program shall be consistent with generally accepted standards of nursing practice appropriate for graduates of the type of nursing program offered;

(c) the input of consumers shall be considered in developing and evaluating the purpose and outcomes of the program;

(d) the nursing program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement;

(e) the curriculum shall provide diverse didactic and clinical learning experiences consistent with program outcomes;

(f) faculty and students shall participate in program planning, implementation, evaluation, and continuous improvement;

(g) the nursing program administrator shall be a professionally and academically qualified registered nurse with institutional authority and administrative responsibility for the program;

(h) professionally and academically qualified nurse faculty shall be sufficient in number and expertise to accomplish program outcomes and quality improvement;

(i) the fiscal, human, physical, clinical and technical learning resources shall be adequate to support program processes, security and outcomes;

(j) program information communicated by the nursing program shall be fair, accurate, complete, consistent, and readily available;

(k) the program must meet the criteria for nursing education programs established in Section R156-31b-601; and

(1) the nursing education program shall be an integral part of a governing academic institution accredited by an accrediting body that is recognized by the U.S. Secretary of Education.

(3) Programs which have been granted provisional approval status shall submit an annual report to the Division on the form prescribed by the Division.

(4) Programs which have been granted provisional approval prior to the effective date of these rules and are not accredited, must become accredited by ~~[July 1]~~December 31, 2005.

(5) A comprehensive nursing education program evaluation shall be performed annually for quality improvement and shall include but not be limited to:

(a) students' achievement of program outcomes;

(b) evidence of adequate program resources including fiscal, physical, human clinical and technical learning resources, and the availability of clinical sites and the viability of those sites to meet the objectives of the program;

(c) multiple measures of program outcomes for graduates such as NCLEX pass rate, student and employer survey, and successful completion of national certification programs;

(d) evidence that accurate program information for consumers is readily available;

(e) the head of the academic institution and the administration support meet program outcomes;

(f) the program administrator and program faculty meet board qualifications and are sufficient to achieve program outcomes; and

(g) evidence that the academic institution assures security of student information.

(6) The curriculum of the nursing education program shall enable the student to develop the nursing knowledge, skills and competencies necessary for the level, scope and standards of nursing practice consistent with the level of licensure. The curriculum shall include:

(a) content regarding legal and ethical issues, history and trends in nursing and health care, and professional responsibilities;

(b) experiences that promote the development of leadership and management skills and professional socialization consistent with the level of licensure, including the demonstration of the ability to supervise others and provide leadership of the profession;

(c) learning experiences and methods of instruction, including distance education methods~~[7]~~ are consistent with the written curriculum plan;~~[-and]~~

(d) coursework including, but not limited to:

(i) content in the biological, physical, social and behavioral sciences to provide a foundation for safe and effective nursing practice;

(ii) didactic content and supervised clinical experience in the prevention of illness and the promotion, restoration, and maintenance of health in clients across the life span and in a variety of clinical settings, to include:

(A) using informatics to communicate, manage knowledge, mitigate error and support decision making;

(B) employing evidence-based practice to integrate best research with clinical expertise and client values for optimal care, including skills to identify and apply best practices to nursing care;

(C) providing client-centered, culturally competent care:

(1) respecting client differences, values, preferences and expressed needs;

(2) involving clients in decision-making and care management;

(3) coordinating and managing continuous client care; and

(4) promoting healthy lifestyles for clients and populations;

(D) working in interdisciplinary teams to cooperate, collaborate, communicate and integrate client care and health promotion; and

(E) participating in quality improvement processes to measure client outcomes, identify hazards and errors, and develop changes in processes of client care; and

(e) supervised clinical practice ~~[shall]~~which include development of skill in making clinical judgments, management and care of groups of clients, and delegation to and supervision of other health care providers;

(i) clinical experience shall be comprised of sufficient hours to meet these standards, shall be supervised by qualified faculty and ensure students' ability to practice at an entry level;

(ii) delivery of instruction by distance education methods must be consistent with the program curriculum plan and enable students to meet the goals, competencies and objectives of the educational program and standards of the division; and

(iii) all student clinical experiences, including those with preceptors, shall be directed by nursing faculty.

(7) Students rights and responsibilities:

(a) students shall be provided the opportunity to acquire and demonstrate the knowledge, skills and abilities for safe and effective nursing practice, in theory and clinical experience with faculty oversight;

(b) all policies relevant to applicants and students shall be available in writing;

(c) students shall be required to meet the health standards and criminal background checks as required in Utah;

(d) students shall receive faculty instruction, advisement and oversight; and

(e) students shall maintain the integrity of their work.

(8) The qualifications for the administrator of a nursing education program shall include:

(a) the qualifications for an administrator in a program preparing an individual for licensure as an LPN shall include:

(i) a current, active, unencumbered RN license or multistate privilege to practice nursing in Utah;

(ii) a minimum of a masters degree in nursing or a nursing doctorate;

(iii) educational preparation or experience in teaching and learning principles for adult education, including curriculum development and administration, and at least two years of clinical experience; and

(iv) a current knowledge of nursing practice at the practical nurse level;

(b) the qualifications for an administrator in a program preparing an individual for licensure as an RN shall include:

(i) a current, active unencumbered RN license or multistate privilege to practice nursing in Utah;

(ii)(A) associate degree program: a minimum of a masters degree in nursing or a nursing doctorate;

(B) baccalaureate degree program: a minimum of a masters degree in nursing and an earned doctorate or a nursing doctorate;

(iii) education preparation or experience in teaching and learning principles for adult education, including curriculum development and administration, and at least two years of clinical experience; and

(iv) a current knowledge of RN practice;

(c) the qualifications for an administrator/director in a graduate ~~[an APRN]~~ program preparing an individual for licensure as an APRN shall include:

(i) a current, active unencumbered APRN license or multistate privilege to practice as an APRN in Utah;

(ii) a minimum of a masters in nursing or a nursing doctorate in an APRN specialty;

(iii) educational preparation or experience in teaching and learning principles for adult education, including curriculum development and administration, and at least two years of clinical experience; and

(iv) a current knowledge of APRN practice.

(9) The qualifications for faculty in a nursing education program shall include:

(a) a sufficient number of qualified faculty to meet the objectives and purposes of the nursing education program;

(b) the nursing faculty shall hold a current, active, unencumbered RN license or multistate privilege, or APRN license or multistate privilege to practice in Utah; and

(c) clinical faculty shall hold a license or privilege to practice and meet requirements in the state of the student's clinical site.

(10) The qualifications for nursing faculty who teach in a program leading to licensure as a practical nurse include:

(a) a minimum of a baccalaureate degree with a major in nursing;

(b) two years of clinical experience; and

(c) preparation in teaching and learning principles for adult education, including curriculum development and implementation.

(11) The qualifications for nursing faculty who teach in a program leading to licensure as a[n] RN include:

(a) a minimum of a masters degree with a major in nursing or a nursing doctorate degree;

(b) two years of clinical experience; and

(c) preparation in teaching and learning principles for adult education, including curriculum development and implementation.

(12) The qualifications for nursing faculty who teach in a program leading to licensure as an APRN include:

(a) a minimum of a masters degree with a major in nursing or a nursing doctorate degree;

(b) holding a license or multistate privilege to practice as an APRN;

(c) two years of clinical experience practicing as an APRN; and

(d) preparation in teaching and learning principles for adult education, including curriculum development and implementation.

(13) Adjunct clinical faculty employed solely to supervise clinical nursing experiences of students shall meet all the faculty qualifications for the program level they are teaching.

(14) Interdisciplinary faculty who teach non-clinical nursing courses shall have advanced preparation appropriate to the area of content.

(15) Clinical preceptors shall have demonstrated competencies related to the area of assigned clinical teaching responsibilities and will serve as a role model and educator to the student. Clinical preceptors may be used to enhance

faculty-directed clinical learning experiences after a student has received clinical and didactic instruction in all basic areas for that course or specific learning experience. Clinical preceptors should be licensed as a nurse at or above the level for which the student is preparing.

(16) Additional required components of graduate education programs, including post-masters certificate programs, leading to APRN licensure include:

(a) Each student enrolled [~~in an APRN program~~] shall be licensed or have a multistate privilege to practice as an RN in Utah;

(b) The curriculum shall be consistent with nationally recognized APRN roles and specialties and shall include:

(i) graduate nursing program core courses;

(ii) advanced practice nursing core courses including legal, ethical and professional responsibilities of the APRN, advanced pathophysiology, advanced health assessment, pharmacotherapeutics, and management and treatment of health care status; and

(iii) coursework focusing on the APRN role and specialty.

(c) Dual track APRN graduate programs (preparing for two specialties) shall include content and clinical experience in both functional roles and specialties.

(d) Instructional track/major shall have a minimum of 500 hours of supervised clinical. The supervised experience shall be directly related to the knowledge and role of the specialty and category. Specialty tracks that provide care to multiple age groups and care settings will require additional hours distributed in a way that represents the populations served.

(e) There shall be provisions for the recognition of prior learning and advanced placement in the curriculum for individuals who hold a masters degree in nursing who are seeking preparation in a different role and specialty. Post-masters nursing students shall complete the requirements of the masters APRN program through a formal graduate level certificate or master level track in the desired role and specialty. A program offering a post-masters certificate in a specialty area must also offer a master degree course of study in the same specialty area. Post-master students must master the same APRN outcome criteria as the master level students and are required to complete a minimum of 500 supervised clinical hours.

(f) A lead faculty member who is educated and nationally certified in the same specialty area and licensed as an APRN or possessing a APRN multistate privilege shall coordinate the educational component for the role and specialty in the APRN program.

R156-31b-607. Standards for Out-of-State Programs Providing Clinical Experiences in Utah.

In accordance with Subsection 58-31b-601(2), the minimum standards that a nursing education program which is located outside the state must meet to allow students to obtain clinical experiences in Utah are set forth as follows.

(1) An entry level distance learning nursing education program which leads to licensure utilizing precepted clinical experiences in Utah must meet the following criteria:

(a) parent-program must be Board of Nursing approved in the state of primary location (business), be nationally accredited by either NLNAC, ~~[or]~~ CCNE, or COA, and must be affiliated with an institution of higher education;

(b) parent-program clinical faculty supervisor must be licensed in Utah or a Compact state;

(c) preceptors within the health care facilities must be licensed~~[7]~~ in good standing, in Utah or a Compact State;

(d) parent-program must have a contract with the Utah health care facilities that provide the clinical sites; and

(e) parent-program must document compliance with the above stated criteria, along with a request to be approved to have a student who is exempt from licensure under Subsection 58-1-307(c).

(2) A nursing education program located in another state that desires to use Utah health care facilities for clinical experiences for one or more students must meet the following criteria:

(a) be approved by the home state Board of Nursing, be nationally accredited by either NLNAC or CCNE, and must be affiliated with an institution of higher education;

(b) clinical faculty must be employed by the nursing education program, meet the requirements to be a faculty member as established by the accrediting body and the program's Board of Nursing, and must be licensed, in good standing in Utah or a Compact state;

(c) preceptors within the health care facilities must be licensed, in good standing, in Utah or a Compact state;

(d) have a contract with the Utah health care facilities that provide the clinical sites;

(e) submit an annual report on forms provided by the Division of Occupational and Professional Licensing and Utah Board of Nursing; and

(f) document compliance with the above stated criteria, along with a request to be approved to have a student(s) who is exempt from licensure under Subsection 58-1-307(c) of the Utah Code.

(3) A distance learning didactic nursing education program with a Utah based proprietary post-secondary school which provides tutoring services, facilitates clinical site selection, and provides clinical site faculty must meet the following criteria:

(a) parent-program must be approved by the Board of Nursing in the state of primary location (business), be nationally accredited by either NLNAC or CCNE, and must be affiliated with an institution of higher education;

(b) a formal contract must be in place between the parent-program and the Utah post-secondary school;

(c) parent-program and Utah post-secondary school must submit an application for program approval by the Division of Occupational and Professional Licensing in collaboration with the Board of Nursing in Utah, utilizing the parent-program's existing curriculum. Approval is granted to the parent-program, not to the post-secondary school;

(d) clinical faculty (mentors) must be employed by the parent-program (this can be as a contractual faculty member), meet the requirements to be a faculty member as established by the accrediting body and the parent-program's Board of Nursing, and must be licensed, in good standing in Utah or a Compact state;

(e) clinical faculty supervisor(s) located at the parent-program must be licensed, in Utah or a Compact state;

(f) parent-program is responsible for conducting the nursing education program, the program's policies and procedures, and the selection of the students;

(g) parent-program must have a contract with the Utah health care facilities that provide the clinical sites; and

(h) submit an annual report on forms provided by the Division of Occupational and Professional Licensing and Utah Board of Nursing.[]

~~R156-31b-608. LPN-GCM Training Standards and Criteria.~~

~~——(1) In accordance with Subsection 58-31b-302(2), an approved geriatric care manager training program for licensed practical nurses shall be affiliated with a division approved and accredited nursing education program.~~

~~——(2) The LPN-GCM curriculum shall consist of a minimum of 270 clock hours and include the following content areas:~~

~~——(a) geriatric nursing (three credit hours, 45 clock hours of didactic and 0.5 credit hour, 10 clock hours lab) including:~~

~~——(i) nursing process and care planning related to aging;~~

~~——(ii) aging and nursing care in relation to:~~

~~——(A) cognition and mental status;~~

~~——(B) musculoskeletal system;~~

~~(C) neurological system;~~
~~(D) metabolic and endocrine system;~~
~~(E) hematological system;~~
~~(F) pulmonary system;~~
~~(G) cardiovascular system;~~
~~(H) urinary renal system;~~
~~(I) gastrointestinal system;~~
~~(J) integumentary system;~~
~~(K) sensory changes;~~
~~(L) immunological system; and~~
~~(M) disuse syndrome;~~
~~(iii) geriatric physical assessment; and~~
~~(iv) functional assessment;~~
~~(b) pharmacology for the geriatric patient (two credit hours, 30 clock hours);~~
~~(c) leadership and management (three credit hours, 45 clock hours) including:~~
~~(i) delegation;~~
~~(ii) charge nursing and care coordination;~~
~~(iii) interpersonal relationship skills;~~
~~(iv) legal and ethical issues; and~~
~~(v) the Nurse Practice Act and scope of practice; and~~
~~(d) precepted clinical experience including at least 140 clock hours, completed under the direct, on-site supervision of a RN licensed and in good standing with the division. A preceptor supervisor may not supervise more than one preceptee at any given time.~~

~~R156-31b-703. LPN-GCM Extended Scope of Practice for the LPN-GCM Pilot Program.~~

~~(1) In accordance with Subsection 58-31b-102(14)(b), the expanded scope of practice for an individual certified as an LPN-GCM includes the following activities for geriatric patients/clients in long term care facilities, following consultation with a RN:~~
~~(a) supervise and direct the following nursing staff as a lead LPN-GCM:~~
~~(i) LPNs;~~
~~(ii) certified nursing assistants;~~
~~(iii) nursing aides; and~~
~~(iv) dining assistants;~~
~~(b) accept verbal orders from prescribing practitioners;~~
~~(c) implement the nursing process:~~
~~(i) assess the health of geriatric patients/clients;~~
~~(ii) identify health care needs;~~
~~(iii) establish short and long term goals to meet identified needs;~~

~~—— (iv) plan a strategy of care which is reviewed and approved by a RN within two calendar days if practicing in a skilled nursing facility, and three calendar days if practicing in any other long-term care facility;~~

~~—— (v) determine nursing interventions;~~

~~—— (vi) implement a strategy of care;~~

~~—— (vii) maintain safe and effective nursing care; and~~

~~—— (viii) evaluate responses to interventions;~~

~~—— (d) perform admission and routine physical assessments, the admission physical assessment must be reviewed and approved by a RN within two calendar days if practicing in a skilled nursing facility, and three calendar days if practicing in any other long-term care facility.~~

~~—— (2) In accordance with Subsections 58-31b-102(17) and 58-31b-102(18)(j), the RN who consults with an LPN-GCM is ultimately accountable for the patient care.~~

~~—— (3) The scope of practice activities listed in (1)(a) and (1)(b) of this section may also be performed by an LPN, if the facility's policies allows such scope of practice activities to be performed by a LPN.~~

~~R156-31b-704. LPN-GCM Pilot Program.~~

~~—— (1) The following are the criteria for the pilot program as established in Section 58-31b-301.5:~~

~~—— (a) A long-term care facility must be licensed in good standing by the Department of Health, without any Class C-L deficiencies, to be eligible to participate in the pilot program. No more than five facilities will be approved for the pilot program.~~

~~—— (b) A long term care facility chosen to participate in this pilot program must be affiliated with a fully approved nursing education program. The role of the nursing education program is to offer expertise and faculty to ensure the training specified in Section R156-31b-608 is accomplished.~~

~~—— (2) A RN preceptor must be employed by the specific pilot long-term care facility and provide consultation to an LPN-GCM:~~

~~—— (a) the RN is to determine the degree of consultation needed with respect to the patient's/client's condition and the experience and training of the LPN-GCM;~~

~~—— (b) the RN must review and co-sign any plans of care or changes to plans of care written by an LPN-GCM within 48 hours; and~~

~~—— (c) the RN must review and co-sign any initial assessments performed and documented by an LPN-GCM within 48 hours.~~

~~—— (3) A long-term care facility participating in the pilot program will be formally evaluated every six months by a review~~

~~committee appointed by the division. Evaluation tools will include:~~

~~—— (a) audits of between 5-10% of each participating facility's geriatric patient charts, chosen at random by the division, including copies of patient assessments (both initial and on going), nursing care plans completed and/or revised by LPN-GCMs, and the history and physical for those patients/clients included in the audit;~~

~~—— (b) the position description for the LPN-GCM and a summary by the director of nursing indicating how the LPN-GCMs are being utilized in the facility; and~~

~~—— (c) a copy of the most recent survey report from the Department of Health, and all other survey reports conducted during the time period of the pilot program.~~

~~—— (4) The division may conduct on-site evaluations to any facility participating in this pilot program.]~~

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